

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 16.5(1)“r” and 17A.3(1)“b” and 2010 Iowa Acts, House File 2148, the Iowa Finance Authority hereby amends Chapter 27, “Military Service Member Home Ownership Assistance Program,” Iowa Administrative Code.

The purpose of these amendments is to clarify the requirements of the Military Service Member Home Ownership Assistance Program and to implement changes called for by 2010 Iowa Acts, House File 2148.

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers at 265—Chapter 18.

The Authority finds, pursuant to Iowa Code section 17A.4(3), that notice and public participation are impracticable and contrary to the public interest in that a delay in implementing the changes mandated by 2010 Iowa Acts, House File 2148, would potentially disadvantage service members seeking to purchase homes in Iowa.

The Authority finds that adoption of these amendments confers a benefit on the persons affected, eligible members of the armed forces, in that the amendments ease and speed the administration of an important and popular state grant program which benefits those members of the armed forces. The Authority finds that these amendments should be implemented as soon as feasible in order to facilitate the awarding of grants under the program and to avoid confusion and delays in real estate closings. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 8946B** to allow for public comment.

The Authority adopted these amendments on June 23, 2010.

These amendments became effective on July 6, 2010.

These amendments are intended to implement Iowa Code section 16.5(1)“r” and 2010 Iowa Acts, House File 2148.

The following amendments are adopted.

ITEM 1. Amend rule 265—27.2(16) as follows:

265—27.2(16) Definitions. As used in this chapter, unless the context otherwise requires:

“*Closing agent*” means the attorney, real estate firm, or closing company that is closing the cash sale qualifying purchase transaction and that prepares the cash sale settlement statement.

“*Eligible service member*” means a person purchasing his or her primary residence in the state of Iowa who, at the time of applying for a grant under the program, (1) is or was a member of the national guard, reserve, or regular component of the armed forces of the United States under Title 10 or Title 32 and has served at least 90 days of active duty service, other than training, beginning on or after September 11, 2001, and, if no longer in active service, was discharged in character other than dishonorable; (2) was honorably discharged due to injuries incurred while on active federal service beginning on or after September 11, 2001; or (3) is a surviving spouse of a service member who met the eligibility criteria of (1) or (2) above.

“*Home ownership assistance*” means the one-time ~~grant~~ assistance of up to \$5,000 per eligible service member that may be used toward down payment or closing costs, or both, in the purchase of a qualified home. This ~~grant~~ assistance does not require repayment except pursuant to rule 265—27.4(16).

“*Participating lender*” means a lender approved for participation in one or more of the authority’s first-time home buyer program that makes available the authority’s first-time home buyer program to customers in the same manner as other mortgage loan programs. programs and a lender approved to facilitate loans under the military home ownership assistance program only. Eligible home buyer program participating lenders are those that make available the authority’s home buyer program to

customers in the same manner as other mortgage loan programs. This requirement applies to branch and affiliate organizations that facilitate mortgage financing with the military grant assistance. The authority may require participating lenders to provide evidence of proof of compliance, such as origination of the authority's first-time home buyer mortgages mortgage loans made pursuant to one or more of the authority's home buyer mortgage programs or mortgage rate sheets evidencing availability of the authority's mortgage program programs. The authority maintains a list of participating lenders on its Web site: www.iowafinanceauthority.gov.

"Program" or "military grant home ownership assistance program" or "MHOA" means the military service member home ownership assistance program authorized by 2008 Iowa Acts, Senate File 2354 Iowa Code section 16.54 as amended by 2010 Iowa Acts, House File 2148.

"Qualified home" means a home that is located in the state of Iowa, that is purchased by an eligible service member as the eligible service member's primary residence on or after July 1, 2008, that will be immediately occupied by the service member or spouse, and that falls into one of the following categories:

1. Single-family residence, including "stick-built" homes, modular homes, or manufactured homes, provided the home is attached to a permanent foundation and is taxed as real estate;
2. Condominium;
3. Townhome;
4. A property containing two to four residential units, where one unit is to be occupied by the eligible service member as his or her primary residence.

The following categories of property shall not constitute a qualified home:

- Multifamily properties of five units or more;
- Commercial or nonresidential property;
- Farmland or other investment property;
- Recreational vehicles, mobile homes, or trailers that are not both attached to a permanent foundation and taxed as real estate.

"Qualified mortgage" means a permanent mortgage loan made pursuant to one of the authority's first-time home buyer mortgage program programs unless the lender offers a lower annual percentage interest rate (APR), fixed-rate, fully amortizing first mortgage for eligible first-time home buyers and targeted area home buyers or, in cases where the home buyer is not eligible for the authority's first-time home buyer mortgage program, standard 30-year, fixed-rate FHA, RD, VA, Fannie Mae, or Freddie Mac mortgage financing, any permanent, fully amortizing, fixed-rate mortgage loan made by a participating lender with amortized payments and a maturity date of not less than five years made by a participating lender. First-time The authority's home buyer mortgage program information may be obtained on the authority's Web site at www.iowafinanceauthority.gov.

"Status documentation" means written documentation of the applicant's status with the armed forces of the United States, typically a copy of a valid DD Form 214, showing character of service other than dishonorable, or the applicant's most recent four months of leave and earnings statements, or other documentation satisfactory to the Iowa department of veterans affairs.

"Title guaranty certificate" means the certificate issued by the title guaranty division of the authority pursuant to Iowa Code section 16.92 to ensure marketable title to the lender or the homeowner, or both. Information about title guaranty may be obtained at: [the title guaranty Web site at www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

ITEM 2. Amend rule 265—27.3(16) as follows:

265—27.3(16) Application procedure and determination of eligibility.

27.3(1) Prior approval. Whether the purchase of a qualified home is by mortgage financing or cash, a determination of the service member's eligibility prior approval of the assistance by the Iowa department of veterans affairs and prior approval of the grant by the authority are authority is required. Approval of the request will entail application and supporting document review by the authority and a determination of the service member's eligibility by the Iowa department of veterans affairs. A minimum of one week two weeks should be allowed for approval response from the authority.

27.3(2) *Financed home purchases.*

a. In the case of the purchase of a qualified home that is to be financed, the eligible service member must apply for a ~~grant~~ assistance under the program through a participating lender or a lender approved to facilitate MHOA assistance. The mortgage financing provided shall be a mortgage loan made pursuant to one of the authority's first-time home buyer mortgage programs if the service member qualifies for it, unless lower APR, fixed-rate, fully amortizing mortgage financing is available or unless another permanent, fixed-rate, fully amortizing mortgage is available if the service member does not qualify for ~~the first-time~~ one of the authority's home buyer mortgage programs.

b. To apply for the military ~~grant~~ assistance, the eligible service member shall provide a participating ~~the~~ lender with all of the following:

- (1) status Status documentation;₂
- (2) submit a A bona fide purchase agreement with any addenda or attachments for a primary residence;₂
- (3) A complete a loan application on Form 1003;₂
- (4) submit a A copy of a government-issued photo identification card;₂
- (5) A copy of the subject appraisal; and

(6) Documentation that demonstrates the home will be occupied as a primary residence. ~~and assist the participating lender in completing a grant application on a form approved by the authority which states the amount of the grant being requested. In the event the applicant is not eligible for the authority's first-time home buyer mortgage program, information evidencing ineligibility and acceptable documentation to the authority must accompany the application.~~

c. The eligible service member shall assist the participating lender in completing an MHOA application on a form approved by the authority stating the amount of the assistance being requested. In the event the service member is not using one of the authority's mortgage programs, the request submission must include early truth-in-lending and good-faith estimate disclosures, and, if the service member is not eligible for a 30-year, fixed-rate mortgage loan, the request submission must also include fully amortized financing and information documenting ineligibility for FHA, VA, RD, Fannie Mae or Freddie Mac financing.

d. ~~The participating~~ Once it has received all of the information required by this subrule, the lender shall ~~then~~ transmit copies of the loan application, the status documentation, the purchase agreement, any necessary supporting documentation, the photo ID, the appraisal, any necessary supporting documentation, and the ~~grant~~ MHOA application to the authority.

e. Service members who were otherwise eligible for the program, but who were ineligible for assistance under the program at the time of closing due to the fact that they purchased a home using a mortgage loan other than one made through one of IFA's home buyer programs, may retroactively receive assistance under the program provided that:

- (1) The mortgage loan used by the service member had a lower annual percentage rate than the mortgage loans being made through the authority's home buyer programs at the time the service member closed on the service member's mortgage loan; and
- (2) The service member and the service member's lender provide all documentation as required by paragraphs "b" through "d," above.

27.3(3) *Cash home purchases.* In the case of a cash purchase of a qualified home, the eligible service member shall provide directly to the authority status documentation, a completed ~~grant~~ MHOA application form obtained from the authority, and a bona fide purchase agreement with any addenda or attachments for a primary residence.

27.3(4) *Referral of status documentation to Iowa department of veterans affairs.* Upon receipt of the completed ~~grant~~ MHOA application, the authority shall submit the status documentation to the Iowa department of veterans affairs for verification that the applicant's duty status is consistent with the definition of "eligible service member." The Iowa department of veterans affairs shall be the final authority as to whether an applicant's duty status is consistent with the definition of "eligible service member."

27.3(5) Notice of ~~grant~~ MHOA approval. Upon confirmation of the applicant's service record by the Iowa department of veterans affairs, provided that the information submitted on the ~~grant~~ application form complies with the requirements of this chapter, the authority shall notify the ~~participating~~ lender, or eligible service member in the case of a cash purchase, that the ~~grant~~ MHOA application has been approved.

27.3(6) Gaps in funding. In cases where the ~~grant~~ military assistance funds are unavailable during the home purchase process, ~~approved transactions~~ MHOA requests for approval shall be placed on a waiting list. When funds are again available, provided that all other criteria have been met, including issuance of the title guaranty certificate, and where the home purchase closed without the benefit of military ~~grant~~ assistance funds being applied toward closing costs or down payment, the proceeds of the ~~grant~~ assistance shall be paid (1) directly to the participating lender/servicing lender to be applied toward the qualified mortgage loan's principal balance ~~or to replenish the eligible service member's contribution toward home purchase,~~ or (2) if the qualified home was purchased pursuant to a cash purchase transaction, directly to the eligible service member. Additional documentation required shall include a statement executed by the applicant authorizing the ~~grant~~ assistance to be applied to the principal balance.

27.3(7) Approval process for facilitating lender status. An Iowa-regulated or federally regulated lender with a physical location in the state of Iowa may submit an application to the authority for approval, even if such lender does not participate in the authority's home ownership programs for home buyers. The application shall include a written request to be approved as an MHOA facilitating lender, a check for \$500 payable to the authority, a narrative describing the lender's mortgage origination process, including mortgage loan products offered through the lender, documentation of Iowa or federal regulation showing that the applicant is in good standing, an errors and omissions insurance declaration evidencing coverage of at least \$300,000, and a completed electronic funds transfer form. Lenders should allow a minimum of two weeks' response time from the authority. The approval to be a facilitating lender shall be valid for one year, and lenders annually will need to submit an application, including the application fee. The application fee may not be charged in part or in full to a service member or to a property seller.

ITEM 3. Amend rule 265—27.4(16) as follows:

265—27.4(16) Grant MHOA award. Grants Assistance awarded hereunder shall be up to \$5,000 toward the purchase of a qualified home and may be used for down payment or for closing costs, or for both. ~~Grant~~ Assistance funds must be applied to the purchase of a qualified home and, in the case of mortgage financing, the mortgage must be a qualified mortgage. Any ~~grant~~ assistance proceeds which are not used for down payment or closing costs toward the purchase of a qualified home which is financed by a mortgage or cash purchase transaction must be returned to the authority.

27.4(1) Grant MHOA reimbursement. The participating lender or cash payment home buyer shall advance funds at closing in an amount equal to the amount of the ~~grant~~ assistance on behalf of the eligible service member to be applied toward closing costs or the down payment. The ~~participating~~ lender or cash payment home buyer, as applicable, shall, within 30 days of closing, submit to the authority a copy of the executed HUD-1 Settlement Statement (or, if the transaction is a cash purchase, the eligible service member may use the settlement statement certified by a closing agent and the eligible service member), a copy of the deed conveying title to the qualified home, a copy of a title guaranty certificate issued for the qualified home, and the military grant agreement and certification (form obtained from the authority) for reimbursement for the amount of the ~~grant~~ assistance. In the event the mortgage financing is not made pursuant to one of the authority's ~~first-time~~ home buyer program programs, reimbursement documentation shall include a certified copy of the promissory note, ~~and~~ mortgage, and final truth-in-lending disclosure.

27.4(2) Grant MHOA assistance restrictions and limitations. All ~~grants~~ assistance under the program ~~are~~ is subject to funding availability. ~~Grants~~ Assistance will be awarded in the order in which completed ~~grant~~ MHOA applications are received. ~~Grants~~ Assistance awarded pursuant to the program ~~are~~ is personal to ~~their recipients~~ its recipient and may not be assigned. Only one ~~grant~~ award of assistance shall be awarded per home purchase. An eligible service member shall receive only one

grant award under the program. While program funds are available, the grant award shall be valid for 60 days in the case of purchases of existing or completed property and 120 days in the case of purchases of property being constructed or renovated. A reasonable extension may be granted with evidence of a purchase loan in progress which has been delayed due to circumstances beyond the service member's control.

ITEM 4. Amend rule 265—27.5(16) as follows:

265—27.5(16) Income, purchase price and qualified mortgage. There are no income or purchase price limits under the program except ~~that~~ for eligible service members purchasing with mortgage financing ~~who are eligible for under one of the authority's first-time home buyer program, whether a first-time home buyer or non-first-time home buyer purchasing in a targeted area, must use the authority's first-time home buyer mortgage program programs.~~ Service members who are not eligible for one of the authority's first-time home buyer mortgage program programs and are not purchasing on a cash basis, must use other permanent mortgages made by the ~~participating~~ lender. Service members may also, if eligible, use other ~~grant~~ subsidy funds from the authority as allowed by one or more of the authority's programs, grant fund assistance available through other public agencies, ~~or~~ nonprofit organizations, or the service member's employer, or any forgivable, "soft second" lien subsidy. Information about the authority's ~~first-time home buyer program programs~~ or how to contact a participating lender may be obtained on the authority's Web site at www.iowafinanceauthority.gov.

ITEM 5. Amend **265—Chapter 27**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ section 16.5(1) "r" and section 16.54 as amended by 2008 2010 Iowa Acts, Senate File 2354 House File 2148.

[Filed Emergency 7/6/10, effective 7/6/10]

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